



Mosquito Control by Public and Private Entities in California Questions and Answers

The California Department of Health Services (DHS) has received numerous inquiries about the regulatory and certification requirements for public agencies, private businesses, and private individuals to conduct mosquito control in California. The following questions and answers attempt to address many of these inquiries. The key points presented in this document are:

- 1) with few exceptions, government agency employees who handle or apply pesticides to control vectors, including mosquitoes, shall be certified by DHS;
- 2) pest control businesses and other private entities that perform outdoor mosquito control work are licensed and certified by the Department of Pesticide Regulation (DPR);
- 3) only *government* agencies engaged in vector control work may enter into a Cooperative Agreement with DHS; and
- 4) vector control agencies that are signatory to this Cooperative Agreement are granted significant regulatory exemptions, in recognition of their unique public health role.

1. Can a private individual use pesticides to control mosquitoes in California?

Yes, general-use pesticides can be applied by anyone, provided that they are applied according to label instructions, on the individual's own property or with permission of the property owner. No certifications or permits are required unless special local restrictions have been implemented (check with your local county agricultural commissioner).

Restricted materials may be applied only by or under the direct supervision of trained and certified applicators. Refer to the California Code of Regulations, Title 3, Section 6400 (3CCR 6400) for a list of restricted-use pesticides. Information regarding the appropriate certifications and/or permits may be obtained from DPR or the county agricultural commissioner as appropriate (also see Q's 10-14).

2. Under what circumstances can a pest control business (PCB) use pesticides to control mosquitoes?

A properly licensed and certified PCB (see Q10 for more information about licensing) can be hired for mosquito control on private or public property. When mosquito control work is performed outdoors, the PCB must follow the California Food and Agriculture Code (FAC), applicable regulations, and the pesticide label. Mosquito control performed by a PCB inside or on a structure (e.g., residual pesticide application) requires appropriate licensing and certification by the

California Department of Consumer Affairs Structural Pest Control Board, as well as following applicable regulations and the pesticide label. Because the large majority of mosquito control work is performed outdoors, the remainder of this document pertaining to PCBs will refer to DPR licensing and certification, and the FAC. For additional information regarding mosquito control indoors or on structures, contact the Structural Pest Control Board at (916) 561-8700 or www.pestboard.ca.gov.

Examples:

- A. On private property, such as for hire by the owner:

The FAC allows a properly licensed PCB to control mosquitoes as a general pest nuisance or health-related pest outdoors on private property. The appropriate certification category for mosquito control is Category K (Health Related).^{*} All applicators (see Q10) are required to use pesticide products that are labeled only for their intended use (i.e., use of a pesticide product in conflict with the label is a violation of law). Also, the applicator must make sure the product stays on target. The product can be a restricted-use or general-use pesticide.

^{*} California Health and Safety Code (HSC) Section 2002 defines a vector as any animal, including mosquitoes, capable of transmitting the causative agent of human disease or capable of producing discomfort or injury. Therefore, Category K is an appropriate certification for controlling all mosquito species, both disease transmitters and general nuisances.

- B. On public property, such as in a city sewage facility or treating effluent on city property:

The answer is the same as the private property scenario above. According to the FAC, a properly licensed PCB, contracted by the governing agency, may control mosquitoes as a general pest nuisance or health related pest outdoors on public property. The appropriate certification category for mosquito control is Category K. As noted above, the pesticide product must stay on target. (Note: Unless the contracting government agency has entered into a Cooperative Agreement with the California Department of Health Services, no exemptions to the FAC or 3CCR regulations would apply.)

3. *Under what circumstances can a government agency employee use pesticides to control mosquitoes?*

Government agency employees who handle, apply, or supervise the use of any (i.e., general and restricted) pesticide for public health purposes (e.g., to control mosquitoes) shall be certified by DHS as vector control technicians (HSC 106925). Employees with the designation of "Certified Technician" may independently handle, apply, or supervise the application of pesticides as part of

their official duties (17CCR 30001). However, employees with the designation of “Certified Technician (Limited)” or “Vector Control Aide” may not handle or apply pesticides, except under the direct supervision of a Certified Technician (17CCR 30003, 30013, and 30017).

In most instances, DHS certified employees work for agencies that are signatory to a Cooperative Agreement (see below) with DHS; this agreement provides different rights and responsibilities than those for private individuals or pest control businesses.

4. Are there any exceptions for government employee certification?

Yes. Certification by DHS is not required for employees of the Department of Food and Agriculture and county agriculture departments who hold a valid Qualified Applicator Certificate in the Health Related Pest Control category issued by DPR, or who work under the supervision of an employee of those departments with DPR certification (HSC 106925).

DHS may establish additional exemptions from the certification requirements of HSC 106925 that are deemed reasonably necessary to further the purposes of this HSC section. If exempted from certification by DHS, the employee would be required to obtain the appropriate certifications and/or permits from DPR.

5. What is the Cooperative Agreement between DHS and vector control agencies?

This is an agreement between DHS and vector control agencies that obligates signatory agencies to certain practices that promote safe and effective vector control. The Cooperative Agreement also ensures that all state and federal pesticide use requirements are met. In return, signatory agencies receive numerous broad exemptions and exclusions from California law and regulations in recognition of their unique public health role in controlling mosquitoes and other vectors. (See Q8 for Cooperative Agreement eligibility)

6. What are some of the requirements of agencies that sign the Cooperative Agreement?

The areas, terms, conditions, and specifications of the Cooperative Agreement are prescribed by the DHS Director (HSC 116180). The current requirements include:

- regular and proper calibration of all application equipment and maintenance of calibration records;
- maintenance of comprehensive pesticide application records;
- monthly submission of pesticide use reports;
- reporting any conspicuous or suspected adverse effects upon non-target organisms or property from pesticide applications;

- appropriate employee certification through DHS and maintenance of continuing education information; and
- regular compliance inspections by the county agricultural commissioner.

7. What are some of the exemptions and exclusions granted to agencies that sign the Cooperative Agreement?

Exemptions and exclusions can be found in various statutory codes and in Title 3 of the California Code of Regulations. The following are currently granted to cooperating agencies:

- Vector Control Exemption, 3CCR 6620(a), exempts cooperating agencies from the requirements of 3CCR 6614 (Protection of Persons, Animals, and Property), 6616 (Consent to Apply), and 6618 (Notice). This means cooperating agencies may apply vector control pesticides in residential areas, even though there may be a reasonable possibility of contamination to non-target persons or property. Additionally, cooperating agencies are not required to obtain property owner consent or to provide notification to a property owner prior to a pesticide application.
- Exemptions from notification and posting requirements for pesticide applications at a school facility (Education Code Sections 17612, 17613).
- Vector Control Exemption, 3CCR 6651, exempts cooperating agencies, under certain circumstances, from providing prior notification of pesticide application to beekeepers and from providing prior notification to the agricultural commissioner in a legally defined citrus/bee protection area.
- Exclusion from the definition of “agricultural use” (FAC 11408(e)), exempting cooperating agencies from:
 - Holding an agricultural pest control adviser license (FAC 11410 and 12001)
 - Registering with the county agricultural commissioner (FAC 12002)
 - Placing pesticide use recommendations in writing (FAC 11411 and 12003)
 - Obtaining an operator identification number from the county agricultural commissioner in certain situations (3CCR 6622)
 - Maintaining pesticide use records in accordance with 3CCR 6624 and submitting monthly pesticide use reports per 3CCR 6627
- Exemption from paying a fee for any hazardous waste generated or disposed of as a result of their control or regulatory activities (HSC 25174.1 and 25205.5).
- Exempting certain pesticides used by cooperating agencies from a “restricted material” designation by the DPR. This exemption

precludes the requirement to have a permit issued by the agricultural commissioner for each use of these pesticides (3CCR 6420).

- Employer Responsibility and Exceptions (3CCR 6760) exempts cooperating agencies from 3CCR 6760-6776 (Article 3: Field Worker Safety). Cooperating agencies are not required to:
 - Provide hazard communication information to agricultural field workers (3CCR 6761)
 - Ensure that persons are not present in areas to be treated (3CCR 6762)
 - Provide training in the areas of pesticide exposure and personal rights to field workers (3CCR 6764)
 - Identify a nearby emergency medical facility that will treat workers exposed to pesticides (3CCR 6766)
 - Provide a decontamination facility for agricultural field workers that is within ¼ mile of the pesticide application area (3CCR 6768)
 - Prevent re-entry of persons to a treated field (3CCR 6770, 6771, 6772 and 6774)
 - Post warning signs around treated fields (3CCR 6776)

8. Who is eligible to sign the Cooperative Agreement with DHS?

DHS may enter into a Cooperative Agreement with any public agency engaged in the work of controlling mosquitoes or other vectors and pests of public health importance (HSC 116180) (also see 17CCR 30015, 30019 and HSC 2002 for related definitions). If DHS or a public agency chooses not to enter into a Cooperative Agreement, the agency would be obligated to follow all applicable pest control laws and regulations (i.e., no exemptions provided by the Cooperative Agreement would apply).

9. Can a PCB operate with any of the exemptions provided by the Cooperative Agreement?

The Cooperative Agreement is specifically limited to public agencies engaged in vector control (see 17CCR 30019). However, agencies that are signatory to the Cooperative Agreement may contract certain vector control activities to PCBs. In these cases, the contracted PCB, properly licensed and certified*, could operate with exemptions provided by the Cooperative Agreement if they are working under the supervision of the signatory agency.

* As noted previously (see Answer 2), if the contracted work is for mosquito control inside or on structures, the PCB must be licensed by the Structural Pest Control Board.

10. What is a Pest Control Business License?

This license, issued by DPR, allows a person to engage in pest control activities for hire, under the scope of their license (i.e., for pesticide applications this would include a Qualified Applicators License* with certification in the appropriate categories for the types of pests controlled). Predominantly, their activities are to use or supervise the use of pesticides by qualified persons hired to control a pest outdoors on any property. However, their activities may also involve the use of any substance, method, or device to accomplish this control without it being a pesticide.

* Additional Information: 3CCR 6000, defines a "Qualified Applicator Licensee" as a person who has qualified by examination in one or more pest control categories (e.g., Category K) to supervise the pesticide applications made by a pest control business licensed pursuant to Sections 11701 and 11709, inclusive, of the FAC, and who is responsible for the safe and legal operations under such license.

11. What is a Category K License?

The Category K - Health Related License is for a PCB. It allows a person, working as a commercial applicator, to use or supervise the use of restricted-use pesticides and/or any other pesticide, or certain substances, methods, or devices for the management and control of pests having medical and public health importance as an employee or owner of the PCB on any property.

This means that a person must possess a valid Qualified Applicator License if the person uses or supervises the use of pesticides (restricted-use and/or general-use) made by a licensed PCB and is responsible for the safe and legal operation of the pest control business (FAC 11701-11709). A Qualified Applicator License is also required if a person uses or supervises the use of federally restricted pesticides or State restricted materials for any purpose or on any property (as a "commercial applicator") other than that provided by the definition of "private applicator." (3CCR 6000)

12. What is a Category K Certificate?

The Category K - Health Related Certificate is for an employee or owner of any business or private enterprise that is not a PCB. It allows a person, working as a commercial applicator, to use or supervise the use of restricted pesticides for the management and control of pests having medical and public health importance on any property controlled or owned by the business or enterprise.

This means that a person must possess a Qualified Applicator Certificate if the person uses or supervises the use of federally restricted-use pesticides or State restricted materials for any purpose, under the definition of a commercial applicator, as an employee or as the operator of the property.

13. How do a Category K Certificate and Category K License relate to each other?

Possession of either a Qualified Applicator License or Certificate allows an individual qualified in Category K to use or supervise the use of restricted-use pesticides for the management and control of pests having medical and public health importance on the property of their business or private enterprise. However, only the License is acceptable for an employee or owner of a PCB.

14. What is a private applicator?

The definition of a "private applicator" (3CCR 6000) does not apply to mosquito control in California. In all other circumstances "private applicator" means: (a) an individual who uses or supervises the use of a pesticide for the purpose of producing an agricultural commodity on property owned, leased, or rented by the individual or his/her employer; or (b) a householder who uses or supervises the use of a pesticide outside the confines of a residential dwelling for the purpose of controlling ornamental, plant, or turf pests on residential property owned, leased, or rented by that householder.

15. Where can I get additional information on mosquito control by public and private entities in California?

For more information regarding mosquito control by public agencies, contact the Department of Health Services, Vector-Borne Disease Section at (916) 552-9730 or www.westnile.ca.gov.

For more information regarding mosquito control by private entities, visit the DPR website at www.dpr.ca.gov.

This document is designed to provide general information regarding the subject matter covered. It is not intended, nor should it be relied upon, as a substitute for the advice of a qualified legal professional.

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